

New York City District Council of Carpenters Pension Fund v. SolarWinds Corporation

COURT: United States District Court for the Western District of Texas
CASE NUMBER: 1:21-cv-00138
CLASS PERIOD: 10/18/2018 - 12/17/2020
CASE LEADERS: John Rizio-Hamilton, Hannah Ross, Jonathan D. Uslaner
CASE TEAM: Thomas Sperber

This is a securities fraud class action that was brought on behalf of persons and entities who purchased or otherwise acquired the common stock of SolarWinds Corporation ("SolarWinds" or the "Company") from October 18, 2018 through December 17, 2020, inclusive (the "Class Period"), and were damaged thereby.

Lead Plaintiff Has Settled the Action for \$26 Million

Lead Plaintiff New York City District Council of Carpenters Pension Fund, on behalf of itself and the Settlement Class, has settled the Action for \$26,000,000 in cash (the "Settlement").

On July 28, 2023, after a hearing, the Court approved the Settlement and Plan of Allocation and approved Lead Counsel's motion for attorney's fees and litigation expenses.

The Settlement Class consists of:

all persons who purchased or otherwise acquired the common stock of SolarWinds from October 18, 2018 through December 17, 2020, inclusive (the "Class Period"), and who were damaged thereby.

Certain persons and entities are excluded from the Settlement Class by definition (see paragraph 25 of the Notice).

Copies of the Notice can be found in the **Case Documents** list on the right of this page. You may also visit the case website, SolarWindsSecuritiesLitigation.com, for more information about the Settlement.

Background and History of the Litigation

Based in Austin, Texas, SolarWinds provides software products used to monitor the health and performance of information technology networks. The Company's flagship product is its Orion platform, which provides a suite of software tools widely used by government agencies and Fortune 500 companies to monitor their networks.

From October 18, 2018 to December 17, 2020 (the "Class Period"), SolarWinds touted its robust security controls and commitment to prioritizing customers' security. Lead Plaintiff alleges that in reality, however, the Company failed to employ adequate cybersecurity safeguards and did not maintain effective monitoring systems to detect and neutralize security breaches, prioritizing short-term profits while cutting security costs, and that as a result of vulnerabilities in the Company's cybersecurity protections, SolarWinds and its customers were particularly susceptible to cyber-attacks. Lead Plaintiff alleges that these misrepresentations caused shares of SolarWinds stock to trade at artificially inflated prices during the Class Period.

The truth began to be revealed on December 13, 2020, when Reuters reported that hackers had infiltrated the networks of the U.S. Treasury and Commerce departments and had been spying on the agencies' internal email

communications. The report further revealed that the hackers had gained access to the networks by tampering with software updates released by SolarWinds.

The next day, SolarWinds disclosed that hackers had breached its network and inserted malware into its Orion monitoring products, which existed in software updates released to SolarWinds customers between March and June 2020. The Company further revealed that the networks of as many as 18,000 customers may have been compromised by the malicious Orion updates.

On December 15, 2020, Reuters reported that, in 2019, a security researcher had warned SolarWinds that anyone could access the Company's update server by simply using the password "solarwinds123." Thus, the SolarWinds breach "could have been done by any attacker, easily." Another cybersecurity expert observed that the Orion updates that contained the malicious code were still available for download days after the Company realized its software had been compromised.

Then, on December 17, 2020, Bloomberg News reported that the networks of at least three state governments were compromised as a result of the SolarWinds security breach. In addition, it was reported that the hackers used the SolarWinds intrusion to penetrate government networks that implicated national security concerns, including the U.S. Department of Energy and its National Nuclear Security Administration, which maintains the country's arsenal of nuclear weapons. Lead Plaintiff alleges that these disclosures caused a precipitous decline in the price of SolarWinds shares, erasing over \$620 million in shareholder value.

On February 9, 2021, the New York City District Council of Carpenters Pension Fund ("Lead Plaintiff"), represented by BLB&G, filed a securities class action against SolarWinds, certain of its current and former senior executives, and certain private equity companies that controlled SolarWinds during the Class Period. On June 1, 2021, Lead Plaintiff filed the Consolidated Complaint. Defendants moved to dismiss the Consolidated Complaint on August 2, 2021. On March 30, 2022, the Honorable Robert Pitman denied Defendants' motions to dismiss in large part, and sustained nearly all of the Complaint.

Discovery in the Action commenced in May 2022. Defendants produced more than 125,000 documents, totaling more than 600,000 pages, to Lead Plaintiff. In addition, the Parties met and conferred and exchanged numerous letters concerning disputed discovery issues over several months.

On September 30, 2022, Lead Plaintiff filed its motion for class certification and appointment of class representative and class counsel, which was accompanied by a report from Lead Plaintiff's expert on market efficiency and common damages methodologies. The motion for class certification was pending when the Parties reached their agreement to settle.

The Parties engaged in mediation on October 26, 2022, which resulted in an agreement in principle to settle in the Action in return for a cash payment of \$26,000,000 for the benefit of the Settlement Class, subject to the Court's approval. On November 28, 2022, the Parties entered into the Stipulation and Agreement of Settlement, which sets forth the terms and conditions of the Settlement.

On February 8, 2023, the Court preliminarily approved the Settlement, authorized Notice to be sent to potential Settlement Class Members, and scheduled the Settlement Fairness Hearing to consider whether to grant final approval to the Settlement for July 28, 2023.

On July 28, 2023, the Court held the final hearing to consider approval of the Settlement and related matters. Following the hearing, the Court entered a final Judgment approving the Settlement and orders approving the Plan of Allocation and awarding attorney's fees and litigation expenses.

The claims administration process concluded in June 2024 and on June 21, 2024, Lead Counsel filed its Motion for Approval of Distribution Plan. On June 24, 2024, the Court issued an Order Approving the Distribution Plan. The initial distribution of settlement funds to eligible claimants occurred in July 2024. Subsequent distributions will occur on a rolling basis, provided that net settlement funds are available.

Case Documents

- Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for Attorneys' Fees and Litigation Expenses ("Notice")
- June 24, 2024 - Order Approving Distribution Plan
- June 21, 2024 - Motion for Approval of Distribution Plan
- July 28, 2023 - Judgment Approving Class Action Settlement
- July 28, 2023 - Order Approving Plan of Allocation of Net Settlement Fund
- July 28, 2023 - Order Awarding Attorneys' Fees and Litigation Expenses
- July 21, 2023 - Reply Memorandum in Further Support of (I) Lead Plaintiff's Motion for Final Approval of Settlement and (II) Lead Counsel's Motion for Fees & Expenses
- June 23, 2023 - Lead Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation
- June 23, 2023 - Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses
- June 23, 2023 - Declaration of Jonathan D. Uslaner in Support of: (I) Lead Plaintiff's Motion for Final Approval of Settlement and Plan of Allocation; and (II) Lead Counsel's Motion for Attorneys' Fees and Litigation Expenses
- February 8, 2023 - Order Preliminarily Approving Settlement and Authorizing Dissemination of Notice of Settlement
- November 28, 2022 - Stipulation and Agreement of Settlement
- June 1, 2021 - Consolidated Class Action Complaint
- February 9, 2021 - Initial Complaint
- February 9, 2021 - PSLRA Notice